

105 KAR 1:445. Electronic ballots in Trustee elections.

RELATES TO: KRS 61.645

STATUTORY AUTHORITY: KRS 61.645(4)(j), (9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 and to conform to federal statutes and regulations. KRS 61.645(4)(j) authorizes Kentucky Retirement Systems to promulgate an administrative regulation to implement the use of electronic ballots in the trustee election process and requires paper ballots to be mailed upon request of any eligible voter. This administrative regulation establishes the procedures and requirements for casting electronic and paper ballots, and the tabulation of the ballots for trustee elections.

Section 1. Definitions. (1) "Ballot" means a voting instrument, either electronic or paper, that includes the candidate's:

- (a) Name;
- (b) Recent photograph;
- (c) City and county of residence;
- (d) Employing agency and position title, or the employing agency from which the candidate last worked or retired and the position title of the last position held;
- (e) Education including schools and universities attended and degrees earned;
- (f) Whether or not the candidate has been convicted of a felony;
- (g) Any professional licenses or certifications held by the candidate;
- (h) Any organization of which the candidate is a member that is listed on the candidate's application; and
- (i) The Web site address where each candidate's application filed by the candidate and the candidate's resume is available for viewing.

(2) "Candidate" means:

- (a) 1. A participating employee;
- 2. Former employee whose membership has not been terminated under KRS 61.535; or
- 3. A retired member, who meets the requirements of KRS 61.645(6); and
- (b) Is one (1) of not more than three (3) nominees from the Board of Trustees for each vacant position, nominated by petition by the membership of the system for which the vote is being taken, or who is written-in on a valid ballot.

(3) "Eligible voter" means any person who was a member or retired member of the retirement system for which the vote is being taken on or before December 31 of the year preceding the election year and who has provided Kentucky Retirement Systems ("Systems") with a valid email address or, if a paper ballot is requested pursuant to KRS 61.645(4)(j), a valid physical address.

(4) "Term of Office" means the period of membership on the Board of Trustees, which begins on April 1 of the year elected or appointed and ends on March 31 four (4) years thereafter.

(5) "Valid Ballot" means a ballot either emailed or mailed by an eligible voter that has properly designated the voter's choice of eligible candidate or candidates for the number of vacancies being filled.

Section 2. Paper Ballot Request. (1) Between November 1 and November 30 of the year

preceding the expiration of the term of office and the trustee election, an eligible voter may request a paper ballot through Member or Retiree Self-Service. The Systems shall notify the eligible voter that an electronic ballot will be provided unless a paper ballot is requested during the requisite time. The Systems shall request that the eligible voter verify the email address attached to his or her account.

(2) An eligible voter may also submit a written request for a paper ballot if received on or before November 30 of the year preceding the expiration of the term of office and the trustee election. Once an eligible voter elects to receive a paper ballot, the voter shall receive paper ballots for all subsequent elections unless the voter requests to vote electronically. A request to modify the type of ballot shall be received on or before November 30 of the year preceding the expiration of the term of office and the trustee election in order to be effective for the upcoming election.

Section 3. Ballot Preparation. (1) The Systems shall prepare the official ballot no later than three (3) months prior to the expiration of the term of office. The ballot, whether electronic or paper, shall contain instructions defining what constitutes a valid ballot. The Systems shall notify the eligible voter on the ballot that any invalid ballot shall not be counted.

(2) For both electronic and paper ballots, the eligible voter shall check a square opposite of the candidate of his or her choice pursuant to KRS 61.645(4)(f), or write-in the name of an eligible member, for each position to be elected.

Section 4. Delivery of Ballots. (1)(a) Electronic ballots shall be emailed to the eligible voter on or before January 20 of the year of the expiration of the term of office and the trustee election.

(b) The Systems shall use the email address on file on or before December 31 of the year preceding the expiration of the term of office and the trustee election. If the eligible voter does not have an email address on file or the Systems receives notification that the email address is invalid so that the electronic ballot cannot be sent, the Systems shall mail a paper ballot to the mailing address on file with the Systems. If the Systems receives a returned paper ballot with notification of a new mailing address from the United States Postal Service, the ballot will be sent to the new address if the notification is received on or before one (1) week prior to the date the vote shall be cast.

(c) The Systems shall be held harmless for any incorrect email address submitted by the member or inadvertently entered by the Systems.

(2)(a) Paper ballots shall be mailed to the eligible voter on or before January 20 of the year of the expiration of the term of office and the trustee election.

(b) The Systems shall use the mailing address on file with the Systems on or before December 31 of the year preceding the expiration of the term of office and the trustee election. If the Systems receives a returned paper ballot with notification of a new mailing address from the United States Postal Service, the ballot will be sent to the new address if the notification is received on or before one (1) week prior to the date the vote shall be cast.

(c) The Systems shall be held harmless for any incorrect mailing address submitted by the member or inadvertently entered by the Systems.

Section 5. Casting of Ballots. (1) If an electronic ballot, the ballot shall be cast on or before March 1.

(2) If a paper ballot, the ballot shall be postmarked to the required address on or before March 1.

(3) Any ballot that does not meet this standard as established in subsection (1) or (2) of this Section shall be invalid and not accepted.

(4) Each eligible voter shall only submit one (1) ballot and any subsequent ballot received will be invalid.

Section 6. Review of Ballots. (1) The ballots shall be submitted to the board's contracted auditing firm. Access to the ballots shall be limited to the contracted auditing firm. The contracted auditor shall review each ballot to ascertain whether it is a valid ballot.

(2) Ballots returned to the Systems for faulty addresses, or ballots that are incorrectly returned or mailed to the street address of the Systems, shall be invalid. All invalid ballots shall remain unopened and returned to the board's contracted auditor. Once the final results are announced, the invalid ballots shall be shredded by the board's contracted auditing firm and a certificate shall be provided to the Systems confirming the shredding of the invalid ballots.

Section 7. Tabulation of Ballots. (1) After totaling the votes cast, the board's contracted auditing firm shall certify the results of the election in writing to the Chair of the Board of Trustees in care of the Executive Director. The certified results shall be received at the retirement office on or before March 15.

(2) Once all electronic and paper ballots have been counted and the election is final, the contracted auditing firm shall destroy all ballots, including data generated and stored from electronic ballots, and provide a certificate confirming the destruction of the ballots to the Systems.

Section 8. Term of Office. Candidates elected by a plurality of the votes cast by eligible voters shall begin their term of office on April 1.

Section 9. Deadlines. If any due date in this administrative regulation falls on a Saturday, Sunday, or day that the Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day. (46 Ky.R. 2001, 2396; eff. 6-2-2020.)